

“A Historic Past”



“A Bright Future”

CITY OF DELAWARE CITY
407 Clinton Street – P.O. Box 4159
Delaware City, Delaware 19706
302-834-4573

MINUTES
REGULAR MEETING OF THE PLANNING COMMISSION
CITY OF DELAWARE CITY
Monday, May 3, 2021 6:30 p.m.
Delaware City Fire Company

CALL TO ORDER

Commissioner Dilliplane called the regular meeting of the Planning Commission to order at 6:30 p.m. Commissioners Dilliplane, Wilkinson, Smith and Renoll and City Manager Baylor were present.

ACTION UPON THE MINUTES OF THE PREVIOUS MEETING

A motion to accept the minutes of the previous meeting was made by Commissioner Wilkinson and seconded by Commissioner Renoll. *All members were in favor and the minutes were accepted as written.*

Discussion of Ordinance 21-0315-01 To Amend Chapter 46 of the City of Delaware City Code by amending the HPR District uses under sections 46-28(a)(20), 46-28(a)(21) and 46-28(a)(26) and adding sections 46-28(a)(42), 46-28(a)(43) and adding a Special Use Permit for certain uses and associated fee.

Discussion of Ordinance 21-0315-02 To Amend Chapters 46 and 54 of the City of Delaware City Code to add requirements for Riparian buffers within the HPR Districts, Streets and Major Subdivisions and Site Plan Approvals.

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City Solicitor Rhodunda explained that tonight he would review both Ordinances that were presented to Mayor and Council with everyone during this Public Hearing and then the Commission will hear Public Comment from anyone wishing to comment on the Ordinances. He explained that tonight is not a Debate; it is just to gather information from the Public and for the Planning Commission to make a Recommendation. City Solicitor Rhodunda stated that Fort DuPont has submitted a Legal Letter but he would not be addressing any of the legal issues they raised. He said the Ordinances came about when the Bluewater project went through; it was approved by the Planning Commission and the City Council. The Public was concerned about the say that City Council had in the decision making after that project. That led Council to ask the Solicitors Office to Draft these Draft Ordinances. City Solicitor Rhodunda Explained that Fort DuPont would not be able to do what they have done if that had not been annexed into Delaware City and they had to follow the New Castle County Code. The City Code is a Fraction of the size of the County Code. He also said the HPR Zoning District is the most inclusive and permissive Zoning District in the State of Delaware. Currently all approvals are “by right”, where if the Code is met, the Council has to Approve it and he feels there is a lot of protection lacking in the Delaware City Code. These Ordinances have been drafted with input from members of Council and Representatives from Fort DuPont. The Ordinances still allow all types of development that is currently allowed under the Code, it just adds an additional step to get a “Special Use Permit”. The City wants to allow Responsible Development that is consistent with the Forts Master Plans and give Delaware City the right to approve it. Solicitor Rhodunda said he is going to read the Ordinances not word for word and explain the reasoning behind them.

-He Explained the Ordinance regarding the Buffer is a Mirror of New Castle County’s Ordinance with the removal of one provision which prohibited development in the Flood Plain, since the Fort is mostly in the Floodplain. Delaware City Code does have Floodplain Regulations.

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The City Engineer reviewed the Ordinances and made some changes to the proposed Ordinance so that a Marina, Boardwalk, Trail and Storm Water Management facility can be in the Riparian Buffer with approval from the appropriate authorities.

-He said tabling matters was a concern for members of Council. If a matter comes before the Planning Commission or Council, they are allowed to table 1 time. After that they would need to submit a new plan.

-He said road Requirements are subject to DelDOT Requirements under this new Ordinance; somehow Fort DuPont was Exempt from State Law. If Fort DuPont gets approval from Del Dot, that is satisfactory for Delaware City.

-There is a common theme in the approval process for Zoning Classification Changes, Major Subdivision Plans and Major Site Plans. The idea is to codify what is the review standard to be used by Council and the Planning Commission. This essentially allows for review and removes the “by right” process. This gives Council an opportunity to consider and make recommendation regarding a project.

Discussion Followed.

City Solicitor Rhodunda stated that Council Member Konkus has a relationship to the existing Marina and will be recusing herself for the Ordinance regarding the Marina Buffer.

-City Solicitor Rhodunda then explained every use that is allowed under the HPR District. Council is concerned about projects that could be submitted without any review. Multifamily units are not prohibited but it will require a Special Use Permit, this gives City Council the ability to review the plan and make sure that it works.

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A Special Use Permit may be granted but is not required to be permitted; it is at the sole discretion of City Council under this Ordinance with a series of factors to consider.

Discussion Followed.

Max Walton, Solicitor representing Fort DuPont explained that in the state Code it says existing Delaware City and Fort DuPont will grow together as one City, diverse land and building uses will be supported at Fort DuPont to achieve a shared vision of live, work, learn, play and visit Community. The Ordinances being discussed tonight do not support this vision and the Ordinances are directly targeting Fort DuPont in an effort to stop multifamily development at Fort DuPont. This could also kill the Marina project because the Townhouses were the funding for the Marina project. Max Walton said he nor the Fort have received the revised copies of the Ordinance that include the City Engineers revisions. Max Walton also said we need to consider how the proposed Buffer Ordinance will impact the home owners who have bought homes along the canal, because this would now apply to them. He Explained in December, unbeknownst to the Fort, Delaware City presented an Ordinance to ban multifamily housing at the Fort in the HPR District. The Fort found out accidentally and the Ordinance was ultimately pulled because it was not noticed properly. In an effort to address the concerns of Council, the Fort met with some Delaware City Representatives and asked what the Ordinances were trying to cure. It seemed then that the City did not want Big Box Apartments and the City reviewed the Forts plans for stacked townhouses. Max's office prepared an Ordinance to try to address what the City felt was a problem. The next thing the Fort noticed was that a new Ordinance was placed on the Agenda to ban stacked townhouses. With this third iteration, City Council has expressed desires to eliminate the multifamily residential housing and make every multifamily use a discretionary Special Use. Ultimately there are 3 iterations that seek to ban Multifamily Residential housing and he asked, does anyone think when you have these out there, will anyone ever be in approval of multifamily, and again that will kill the Marina. He stated all Special Use Permits are at the sole discretion of Council and they can deny them for any

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reason or no reason at all. He said to be fair, Council is not subjecting any other Zoning classification to this Special Use Permit for anything. It's specifically targeting one owner and one project. He added that this isn't about preserving Riparian Buffers in the Town, only preserving them at Fort DuPont, targeting at one particular property. Max Walton said that as far as tabling items, they can table it but it doesn't say it was to be brought up again, so it could be tabled indefinitely. The Ordinances eliminates the exception for the streets in the HPR district, he says they are in there to protect the Fort's Historic District designation, to keep the character of the streets appropriate. He also said that for all Subdivisions, they are adding discretion to the Planning Commission to deny even if it's Zoned for the proposed use. New Castle County Code has it the way the City has it now, if it meets the requirements it has to be approved. In conclusion he says, this is to target Fort DuPont and kill the Marina and Amenities. This is antithetical to the Master Plan which has growth elements and multifamily housing, it makes no Economic sense, and the City will notice far less revenue from the redevelopment. He feels this is reverse Spot Zoning; you can't simply reverse everything that was done. No builder will ever build a substantial project if it can be denied on the whim of Council. If adopted, this will be the only jurisdiction in the entire State where multifamily housing in a specific district will only be allowed by Special Use Permit. The Fort feels these Ordinances don't make any sense, they will prevent people from investing, prevent jobs and they believe it's illegal. They do not believe it's in the best interest of Delaware City. He spoke to the Planning Commission and said, if the City has an issue, talk about it, let's go back to growing as one City.

Commissioner Dilliplane asked if he had not been given the most recent revision of the Ordinances. Solicitor Walton said he had not after hearing Solicitor Rhodunda's presentation tonight where they are making revisions.

Public Comment

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Dan Saunders /207 Jefferson St. – In Support of the Ordinances, He feels they are necessary to insure cooperation between the Fort and the City.

Toby Williams/403 Hamilton – Fort DuPont was approved 3 years ago, we can't deny it now. There needs to be numbers given to the Planning Commission on the Buffer area, how many feet. He also feels there are no Wetlands where they are talking about Wetlands.

Megan Titus/ 515 Clinton Street- she said she asked Max Walton in the past about why the Buffer Zone was left out of our HPR Zone, She said Max said he missed adding that. There needs to be a Checks and Balances and she feels this Ordinance covers that.

Troy Nash/ 405 Fifth St. – Enjoyed having the Fort to explore before the Development there.

Karem Hall/ 907 Reynolds – New Resident at Fort DuPont. They bought into the Community on the promise of the future development.

Ebon Flagg/ 918 Reynolds St. – This Council was voted on by the people and Fort DuPont was approved. He has the friendliest neighbors he's ever had, they are not here to create their own Community; they are here to be a part of the whole Community. He said they will be part of who's on Council going forward.

Erica Lindsey/ 905A Fifth St – Thanked Council for introducing the Two new Ordinances. She feels the FDRPC Director and Solicitor are untrustworthy. She feels these Ordinances will restore our voices and power, unite both sides of the Canal and protect the environment. They implement Checks and Balances.

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Susan Rahn/ 1313 Officers Row – FDRPC needs more oversight. She said the most updated master plan is not available. There have only been 2 Residential buildings renovated that are both rented by the FDRPC Employees, the other buildings they were told would be developed have not been.

George X – A lot of new faces in the room. This town has always been a family and wants it to stay that way.

Dale Slotter/ 210 Clinton St. – Felt that the Solicitor made it sound like the City doesn't know what they are doing. He feels there is transparency, with our City Manager and Vice Mayor sitting on the Board at Fort DuPont, they don't give reports and maybe that's why it feels like there's no transparency. He feels it is too restrictive and people won't invest here.

Leah/ 2015 Draper- They are here because they loved Delaware City. They bought here with the plan of what Fort DuPont would be. They hope to see all that they bought into come to for wishen. They want to protect their property value as well.

Commissioner Dilliplane asked Leah how she felt about the stacked townhouses becoming part of the neighborhood. She said she feels really good about that and feels there is ways development can happen in responsible manners without destroying the small town feels.

William Rahn/ 1313 Officers Row – His concern with Stacked townhomes is crowd size and parking. He feels it will become over crowded with unmitigated development. He feels the Ordinances are creating balances and he is in support of them.

Timothy Taylor / 2015 Draper St- They moved here based on what had already been approved and now the town is second guessing what they approved. Now it feels like an us vs. them. People have

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invested in there properties and in this town. They feel forced a crossed the canal. The people who moved here are now paying the price for Council taking back their approvals. This is to grow the entire City.

Susan Rahn/ 1313 Officer Row – It’s important to keep things in check. Fort DuPont has not always been transparent.

Ebon Flagg/ 918 Reynolds St- He is for stacked townhouses and all development. That is what they invested a half million dollars here for.

Christopher Brown/ 86 Washington Street – Pro Business but never known a development company to be able to do whatever they want. He is in support of the Ordinances.

Kyle/ 6 Warfel Drive – Loves the town and all the people. He thinks Fort DuPont is a great area and he would love to see it developed and he’s glad these discussions are taking place.

Megan Titus / 515 Clinton – It’s not us against Fort DuPont. We want to protect everyone’s interests.

Ray Fruityer/ 909 Fifth St. – Wants these Ordinances for check and Balances.

Craig O’Donnell / 105 Washington St. – No Communication from the Corporation at the Council Meetings, it would be nice if Bi-monthly someone would come and take questions. He thinks this process will work very well.

John Buchheit/ 30 Clinton St- He said he’s hearing a lot of them and us. The City Manager represents Delaware City on the Fort DuPont Board, if there are any questions, you can ask him.

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There is no lack of transparency. Delaware City used to be very business friendly. Ordinances are written like crazy now; our Legal fees are through the ceiling. He doesn't trust this Ordinance to be at the discretion of Council for investors coming to Town.

Commission Comments

Commissioner Smith said he heard a lot of Pros and Cons. He was under the Impression that they had the funding to support the entire initial plan. He feels Old Delaware City want it the way it is, New Delaware City wants what they were sold.

Commissioner Wilkinson said the us vs. them concept is very sad. She would like an update at Council Meetings from Fort DuPont. She said the thing about the Ordinances that bother her is that there is nothing preventing Council from disapproving the Special Use Permit simply because they don't like the idea. She also feels Council is trying to take over some of the duties of the Planning Commission.

Commissioner Renoll says the Ordinances are too subjective and he wonders where exactly they came from. He also feels there may have been some back door politics. He feels the timing on these is very tough, maybe if this came up back in 2005.

Commissioner Dilliplane said he has been present for all of the meetings for the future of Fort DuPont. They do get money from the State but they do have to sell land and make money on events to fund their projects. He says in 2016 we bought into the idea of Fort DuPont. He feels the Ordinances are too restrictive and too subjective.

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Commissioner Dilliplane made a motion to table to the next meeting, the motion was seconded by Commissioner Wilkinson, all were in favor, *and the Motion passed.*

ADJOURNMENT

The motion to adjourn was made by Commissioner Wilkinson. All were in favor. *The Planning Commission Meeting was adjourned at 9:00 p.m.*

Respectively submitted,

Britney Loveland

City Secretary